

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

HOWARD D. REID,

Petitioner,

v.

9:04-CV-178

ATTORNEY GENERAL FOR THE STATE
OF NEW YORK,

Respondent.

THOMAS J. McAVOY
Senior United States District Judge

DECISION and ORDER

Petitioner, Howard D. Reid, commenced this action seeking habeas corpus relief pursuant to 28 U.S.C. § 2254. The matter was referred to the Hon. Randolph F. Treece, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The February 14, 2008, Report-Recommendation recommended that the Court deny the writ of habeas corpus petition. In denying Petitioner's request, Magistrate Judge Treece concluded that the statute of limitations had run on Petitioner's claim. Report and Recommendation at 13. Further, the Magistrate found that the equitable tolling doctrine was not applicable and, thus, did not create an exception to the statute of limitations. Id.

Petitioner filed an objection to the Report-Recommendation, but noted only that he “stand[s] by [his] papers pending before the Court.” See Objection to Report and Recommendations, Feb. 25, 2008.

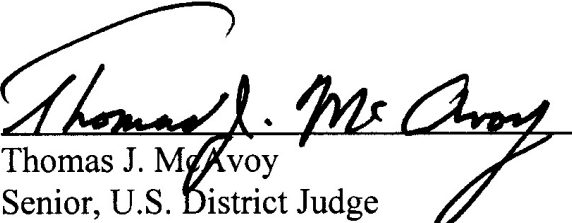
When a Petitioner objects to a magistrate judge’s Report-Recommendation, the Court makes a “*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

Having reviewed the record *de novo*, the Court adopts the recommendation of Magistrate Judge Treece for the reasons stated therein. Accordingly, Petitioner’s request of a writ of habeas corpus is **DENIED**.

A certificate of appealability should be issued when a petitioner “make[s] a substantial showing of the denial of a federal right.” Barefoot v. Estelle, 463 U.S. 880, 881-82; 28 U.S.C. § 2253(c). Having failed to show that he has been denied a federal right, any request for a Certificate of Appealability is **DENIED**.

IT IS SO ORDERED.

Dated: August 1, 2008


Thomas J. McAvoy
Senior, U.S. District Judge